

REMARKS

In response to the Final Office Action mailed May 5, 2005 and Advisory Action mailed July 11, 2005, Applicants respectfully request reconsideration. To further the prosecution of this Application, Applicants submit the following remarks. The claims are believed to be in allowable condition. Claims 1-34 are now pending in this Application. Claims 1, 11, 20 and 21 are independent claims.

Rejections under §102

Claims 1-3, 7, 8, 10-13, 17, 18, 20-22 and 24 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,438,596 to Ueno et al. (hereinafter Ueno). Ueno discloses a video on demand system wherein the video delivery to the set-top unit is dynamically controlled by selecting a video stream from a video server or from a storage unit of a head-end, as shown in Figure 2 and as described at column 10, lines 24-35. As discussed with the Examiner, the Ueno reference includes a video server which arguably corresponds to the provider node of the present application, a cached node or network cache (head-end) which arguably corresponds to the transferring node of the present application, and a user (set-top unit) which arguably corresponds to the child node of the present application.

In contrast to Ueno, claim 1 recites that the transferring node is part of an overlay network based on logical relationships, the overlay network including a hierarchical network of nodes, the overlay network implementing an abstraction on top of an existing network based on other connections. Support for this can be found in the specification as filed, for example at page 4, line 25 through page 5, line 20 and further at page 24, line 4 through page 25, line 21. Ueno fails to disclose or suggest an overlay network based on logical relationships or that the overlay network is implemented as an abstraction over an existing network based on other connections. Accordingly, amended claim 1 is believed allowable over Ueno.

Claims 11, 20 and 21 recite similar language, and are therefore believed allowable over Ueno for the same reasons. Claims 2, 3, 7, 8, 10, 12, 13, 17, 18, 22 and 25-34 depend from claims 1, 11 20 or 21 and are believed allowable as they depend from a base claim which is believed allowable. Further, claims 27-34 further define the overlay network wherein the hierarchical network of nodes comprises a distribution tree and wherein the distribution tree is rooted at a source node, the source node comprising the transferring node. Ueno does not disclose or suggest a distribution tree of nodes rooted at a source node and tat the source node is the transferring node.

Accordingly, the rejection of claims 1-3, 7, 8, 10-13, 17, 18, 20-22 and 24 under 35 U.S.C. §102(e) as being anticipated by Ueno is believed to have been overcome.

#### Rejections under and §103

Claims 4, 9, 14 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ueno in view of U.S. Patent No. 6,282,172 to Robles et al. (hereinafter Robles). Claims 5, 6, 15 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ueno in view of U.S. Patent No. 6,496,520 to Acosta (hereinafter Acosta). Claims 23, 25 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ueno in view of RFC 1112 (hereinafter Deering). Claims 23, 25 and 26 depend from claims 1, 11 or 20 and are believed allowable as they depend from a base claim which is believed allowable. Accordingly, the rejection of claims 4, 9, 14 and 19 under 35 U.S.C. §103(a) as being unpatentable over Ueno in view of Robles, the rejection of claims 5, 6, 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over Ueno in view of Acosta); and the rejection of claims 23, 25 and 26 under 35 U.S.C. §103(a) as being unpatentable over Ueno in view of Deering is believed to have been overcome.

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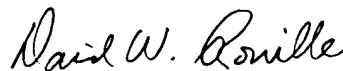
Conclusion

In view of the above, the Examiner's objections are believed to have been overcome, placing claims 1-34 in condition for allowance, a reconsideration and allowance thereof is respectfully requested. If the Examiner believes, after this Response, that the Application is not in condition for allowance, the Examiner is respectfully requested to call the Applicants' Representative at the number below.

Applicants hereby petition for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-0901.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,



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